



PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Byung-Geun KANG

Group Art Unit: 2609

Application No.: 10/529,368

Examiner: A. CHOWDHURY

Filed: March 28, 2005

Docket No.: 123219

For: PEN-SHAPED OPTICAL MOUSE

RESPONSE TO ELECTION OF SPECIES REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In reply to the May 21, 2007 Election of Species Requirement, Applicant provisionally elects Species I, Figures 2A-2F, with traverse. At least claims 1 and 4-11 read on the elected species.

Applicant respectfully asserts that the Requirement is improper under the rules of practice in PCT national stage applications, because the appropriate unity of invention standards have not been properly applied by the Patent Office. In PCT national stage applications, the Examiner may issue a restriction-type Requirement if no unity of invention exists. However, the Examiner must state why there is no "single general inventive concept." See MPEP §1893.03(d). Therefore, a single application may include one invention, or more than one invention if the inventions are "linked as to form a single general inventive concept." Id. (emphasis added). If multiple inventions are included in the application, they are deemed to be linked if there exists a "technical relationship among the inventions that involves at least one common or corresponding special technical feature." Id.

In the outstanding Election of Species Requirement the Examiner does not indicate any reason why the enumerated species do not form a single general inventive concept. On page 3 of the Requirement, the Examiner notes the differences between the various species. However, regardless of the differences, the Examiner did not point out why the species lack a common special technical feature. This is insufficient to sustain an Election of Species Requirement under PCT practice. See Example 3, §10.23 of the PCT International Search and Preliminary Examination Guidelines. Thus, withdrawal of the Election of Species Requirement is respectfully requested.

Respectfully submitted,



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JAO:ALW/lah

Date: June 21, 2007

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